

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 98-170

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In the Matter of)
)
)
Truth-in-Billing and)
Billing Format)
_____)

**COMMENTS OF THE
EDUCATION AND LIBRARY NETWORKS COALITION**

Introduction

The Education and Library Networks Coalition (“EDLINC”)¹ submits these Reply Comments pursuant to the Commission’s Notice of Proposed Rulemaking (the “NPRM”) dated September 17, 1998. EDLINC supports the goal of giving telephone subscribers full and accurate information regarding the charges that make up their bills.

In principle, EDLINC does not believe that the Telecommunications Act of 1996 or resulting regulatory actions should have required any departure from traditional practices regarding subscriber bills. In the past, long distance companies and other telecommunications carriers have had great latitude in setting the format and content of their bills. Charges to support universal service have traditionally not been itemized on subscriber bills and this was rarely, if ever, an issue for subscribers. Given the reductions in access charges mandated by the Commission, there is no reason to believe that the contributions needed “to preserve and advance universal service,” as contemplated by Congress in Section 254(d), should ever have become a

¹ The members of EDLINC are listed in Appendix A.

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matter for concern, whether for subscribers, carriers, or the Commission. We are only dealing with these issues today because of the unilateral decisions of certain carriers, which have raised concerns among consumers with respect to a whole range of issues, including slamming and cramming, as well as access charges and universal service contributions. Unfortunately, the only way to deal with these matters now appears to be Commission regulation of carrier billing formats and practices. While all parties concerned, including EDLINC, might ultimately prefer the traditional approach, we may have passed that point.² The Commission should act to the full extent of its authority to ensure that subscribers are given full and accurate information about what they are paying for, how much it costs, and why they are paying it.

I. IF UNIVERSAL SERVICE CONTRIBUTIONS AND OTHER LINE ITEMS ARE TO BE ITEMIZED ON SUBSCRIBER BILLS, THEY MUST BE CORRECTLY IDENTIFIED AND ACCURATELY DESCRIBED.

Subscriber bills are not the proper forum for policy debate or political “spin.” A bill is nothing more than a statement of the facts regarding a particular subscriber’s financial obligations to a carrier. While the First Amendment may allow a carrier to use its bills to express its disagreement with the government’s policy choices, the Constitution does not give carriers the right to mislead subscribers. As the saying goes, carriers have the right to their own opinions, but not to their own facts. We believe that any billing practice that misleads subscribers is inherently unreasonable, and subject to Commission regulation under Section

² We have always believed that universal service contributions could be recovered through rates, without any additional surcharge. We also understand that reductions in access charges could make long distance carriers whole. As the NPRM notes, these issues are before the Joint Board and are not the subject of this docket; if the Joint Board concludes that universal service contributions can be recovered through one of those mechanisms, no further action in this docket may be necessary. The tone and course of the public debate so far, however, make us skeptical.

201(b) of the Communications Act. Accordingly, all charges on a subscriber's bill that are separately identified must be labeled as accurately as possible.

For example, merely because a carrier might prefer not to pay or collect a certain charge would not entitle it to label the charge in a manner calculated to arouse subscriber opposition. Accordingly, if a carrier were to identify an item as a "tax" when it is clearly a "fee" under applicable law, the carrier would be misleading subscribers.

Similarly, the NPRM notes that there is subscriber confusion about access charges and universal service contributions because carriers have identified the items as having been mandated by the Commission, when in fact they have not be mandated. This is misleading because it creates the impression that the Commission has imposed a tax on subscribers. Ironically, the Commission could have established a specific mechanism for recovering these amounts but chose not to, leaving it to the carriers' discretion. Indeed, the Commission expressly rejected recovering the contribution through an end-user surcharge, to allow carriers flexibility in bundling and pricing service offerings. Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, 12 FCC Rcd 8776 (1997), at ¶ 853. The Commission even anticipated some of the issues raised in this docket, stating that if contributors were to pass contributions through and identify them on subscriber bills, they "must be careful to convey information in a manner that does not mislead by omitting important information that indicates that the contributor has chosen to pass through the contribution or part of the contribution to its customers and that accurately describes the nature of the charge." *Id.* at ¶ 855. Since some carriers seem to have ignored this admonition, the Commission has no choice but to require all carriers to properly identify and describe all charges shown on bills.

The Commission should also require carriers to provide more information describing other itemized charges. Carrier bills are confusing under the best of circumstances because they include many different charges without explaining them. One relatively simple bill is attached as Appendix B. As will virtually all phone bills, this bill -- which shows monthly charges for Bell Atlantic and AT&T -- is very nearly incomprehensible, even though the only services it includes are (1) Bell Atlantic's standard residential service; (2) IntraLATA calls carried by Bell Atlantic; and (3) two long distance calls carried by AT&T. The bill is ten pages long and includes at least thirteen separate line items, not counting subtotals and totals. These line items are:

- Monthly Service;
- Local Measured and/or Extended Area Calls;
- Rate change;
- Federal Subscriber Line Charge;
- 911 Tax: Local;
- Virginia Relay Center Surcharge;
- Public Rights-of-Way Use Fee;
- Federal and Local Taxes;
- AT&T Carrier Line Charge
- AT&T Universal Connectivity Charge;
- AT&T Itemized Calls;
- Federal Tax @3%; and
- Virginia Interstate Tax Surcharge.

None of these items is explained. Bell Atlantic lists a phone number that subscribers can call to ask questions, and AT&T lists an 800 number for subscribers who want an explanation of the carrier line charge and the universal connectivity charge, but neither carrier offers any written information about any of the line items. Consequently, even if a carrier's bill is accurate as far as it goes, the average subscriber may not understand it. Although such a bill may not be misleading, it may still be unreasonable under Section 201(b), simply because it does not contain enough information for the subscriber to determine what he is paying for. Subscribers should not have to go to unreasonable lengths to educate themselves about the details of common carrier

regulation just to make they sure they are paying the right amount. This applies to all types of charges, including universal service contributions.

II. THE COMMISSION SHOULD ADOPT SAFE HARBOR LANGUAGE REGARDING UNIVERSAL SERVICE CONTRIBUTIONS, AND REQUIRE CARRIERS TO INCLUDE THE INFORMATION IN EACH MONTHLY BILL.

All parties would benefit from the adoption of a single, legally and factually accurate statement describing the nature and purpose of the universal service contributions, for those carriers that choose to include a line item to identify the amount of the contribution. Similar language regarding other charges, such as access charges, would also be beneficial. We recommend that the Commission develop safe harbor language based on the following principles:

1. Bills should include a statement on the history of universal service, noting that it is a long-standing federal and state policy.
2. Bills should describe the benefits of universal service to the country as a whole, as well as to eligible recipients.
3. Subscribers should understand that the Commission was directed by law to revise the existing universal service program, and was not acting without authority.
4. Subscribers should be told that merely because certain charges are now being separately identified does not mean that the amount of their bills is necessarily increasing.
5. Bills should explain that certain regulatory actions have led to reductions in rates for most subscribers, and should include an average of the monthly savings to subscribers resulting from those regulatory charges.
6. Subscribers should understand that carriers have discretion to decide how to pay for their universal service contributions, and that they are not required by law or regulation to pass those amounts through to subscribers.

An explanatory statement based on these principles should be included with each monthly bill for a period long enough to ensure that subscribers have had an opportunity to

understand how legislative and regulatory changes have affected their bills. We suggest a period of two years. Thereafter, the notice could be provided less frequently, for example, semi-annually. Carriers should also be encouraged to make the same information available by other means, such as the 800 number recording used by AT&T. Such recordings, however, should not be considered a substitute for written explanations.

III. SUBSCRIBERS ARE ENTITLED TO KNOW HOW ALL ITEMS ON THEIR BILLS ARE CALCULATED, AND THIS INFORMATION SHOULD BE INCLUDED IN EVERY BILL.

Just as subscribers are entitled to know what they are paying for, they are entitled to know how their charges are computed. Carriers have the upper hand in preparing their bills because only they have access to all the information needed to verify the accuracy of their bills. Subscribers should not have to refer to outside sources to determine whether their bills are correct; consequently, to level the playing field, carriers must provide all the necessary information, in writing.

We are not concerned here with rates set in negotiated contracts, since these rates are expressly agreed to by subscribers and they presumably have copies of any contracts. Subscribers do not necessarily have ready access to the terms of any applicable tariffs, however, so basic tariff terms should be included. The basis on which taxes, fees, and charges are calculated must be also stated, along with any applicable percentage. Flat rate charges should be identified as such, and subscribers should be told how the flat rate was determined. Furthermore, if a flat fee results in revenues greater than the costs it allegedly defrays, this should also be stated.

For example, MCI charges residential subscribers a five percent universal service fee; this is a conveniently round number, and subscribers have no way of knowing whether there is

any correlation between the amount of money MCI is collecting and the actual amount of its universal service contributions. Furthermore, MCI had planned to charge a 5.9% fee beginning in July 1998, in anticipation of full funding of the original \$2.25 billion amount to support schools and libraries. When the Commission reduced the funding requirement by nearly half, MCI decided to implement the lower five percent fee. If the original 5.9% figure was adequate when proposed, it would appear that, even allowing for continued funding requirements for rural and high cost universal service programs, the subscriber contribution amount should have been cut by more than just 0.9%. The point is that subscribers simply do not know why they are paying this rather than some other figure.

Similarly, AT&T charges a flat rate universal service connectivity charge of \$0.93 a month (*See Appendix B*), but subscribers are not told how that figure is computed, and have no way of knowing they are not overpaying.

Any information needed to compute an item shown on a bill – other than a negotiated rate -- should be included with the bill. Subscribers do not necessarily retain copies of old bills, so this information must be provided with every bill.

Finally, the Commission should reject any claims that additional information should not be provided because it may confuse subscribers. This is a specious argument. Given how little information carriers currently provide, more information can only improve the situation.

Conclusion

In view of the level of subscriber confusion and concern reported over carrier billing practices, it appears that regulation of billing formats and content is necessary. The Commission should take steps needed to ensure that subscribers understand their bills and know they have been computed properly.

Respectfully submitted,



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APPENDIX A

The Members of EdLiNC

Alliance for Community Media
American Association for Adult and Continuing Education
American Association of Educational Service Agencies
American Association of School Administrators
American Library Association
American Psychological Association
Association for Education Communications and Technology
Association for Supervision and Curriculum Development
Association for the Advancement of Computing in Education
Center for Media Education
Consortium for School Networking
Council for American Private Education
Council of Chief State School Officers
Education Legislative Services, Inc.
Educational Testing Service
Federation of Behavioral Psychological and Cognitive Sciences
International Society for Telecommunications in Education
International Telecomputing Consortium
National Association of Counties
National Association of Elementary School Principals
National Association of Independent Schools
National Association of Secondary School Principals
National Association of State Boards of Education
National Association of Student Financial Aid Administrators
National Catholic Educational Association
National Education Association
National Grange
National Rural Education Association
National Rural Electric Cooperative Association
National School Boards Association
Organizations Concerned about Rural Education
People for the American Way Action Fund
The Rural Challenge
United States Catholic Conference
United States Distance Learning Association



Oct 8 1998

Amount Due

\$43.27

Notice: Late charge details on Summary page

DO NOT MAIL A PAYMENT. You are enrolled in Bell Atlantic's direct debit payment option. Your bill will be paid on the 20th day after your bill date.



Questions call 954-6222



Oct 8 1998

Summary

From Last Bill
\$32.41 Last bill
-32.41 Payments
.00 Balance from last bill

Current charges
30.68 Bell Atlantic
7.53 Taxes/Misc Charges
5.06 AT&T
\$43.27 Subtotal

Page
5-6
6
7-10

\$43.27 Bell Atlantic-VA

This bill was mailed on Oct 14, 1998. A late payment charge of 1.5% will apply to any amounts not received by Nov 7.



Oct 8 1998

For Your Information

Participants in Bell Atlantic's Direct Debit Payment Option, the following is provided for your information only:

Bell Atlantic will automatically debit your checking account 20 days after your bill date, each month. This authorization applies to the account shown on the voided check you provided and any future account that you may designate by calling Bell Atlantic. You understand that Bell Atlantic reserves the right, upon written notification, to terminate your participation in this payment option. Your participation in this payment option is subject to Bell Atlantic's approval. You understand and agree that Bell Atlantic is not liable for erroneous bill statements or incorrect debits to your account, except that should an error in the bill statement occur, Bell Atlantic will be responsible to correct it when and if Bell Atlantic receives notice from you of this error.



Oct 8 1998

For Your Information

Service Name Changes Only

You may have one of the following services which will now be named differently on your bill. These changes will not affect the existing services or rates. Not all of these services are available in all areas.

Old Name

Call Waiting ID
Call Waiting Deluxe
Caller ID Deluxe
Repeat Call
Easy Voice
Return Call
Speed Calling
Ident-a-Ring
Intelligent Toll Free Standard
Intelligent Toll Free Basic

New Name

Call Waiting ID with Name
Caller ID Manager with Name
Caller ID with Name
Repeat Dialing
Voice Dialing
'69
Speed Dialing
Distinctive Ring
Toll Free STD
Toll Free BAS



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Intelligent Toll Free Key Connections
Dedicated Toll Free

Toll Free KC
Toll Free DED



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Bell Atlantic Charges

\$15.13 Monthly Service Oct 08-Nov 07
Local Measured and/or Extended Area Calls

	# Calls/Init.Min.	Add'l Min.	Rate Period	Band
13.88	61	193	Weekday	4
	18	48	Evening	4
	6	33	Night/Weekend	4
<u>13.88</u>	Charges			
-1.05	40% Off (Evening Rate Period Charges		2.62)	
-.85	60% Off (Night/Weekend Rate Period Charges		1.42)	
<u>11.98</u>	Net Charges			

\$11.98 Subtotal

Rate change
.07 from Oct 1 thru Oct 7 @ .31 monthly

\$.07 Subtotal Bell Atlantic Charges
3.50 Federal Subscriber Line Charge



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\$30.68 Total Bell Atlantic

Questions call **954-6222**
We're easiest to reach Tues through Thurs

Taxes/Misc Charges

\$ 1.75 911 Tax: Local
.16 Virginia Relay Center Surcharge
.50 Public Rights-of-Way Use Fee
5.12 Taxes: Federal .93; Local

4.19

\$ 7.53 Total Taxes/Misc Charges

Questions call **954-6222**
We're easiest to reach Tues through Thurs



Oct 8 1998

AT&T Charges

This portion of your bill is provided as a service to AT&T. There is no connection between Bell Atlantic and AT&T. You may choose another company for your long distance telephone calls while still receiving your local telephone service from Bell Atlantic.

Summary of AT&T Charges

\$ 1.78 Additional Credits and Charges (see details)
3.12 Itemized Calls (see details)
.16 Taxes and Surcharges (see details)
\$ 5.06 Total for AT&T Charges

If you have a question please call 1 800 222-0300.



Oct 8 1998

AT&T Invoice Charges For Period Ending OCT 01, 1998

ARE YOU MOVING?

Taking your AT&T services along is as easy as 1,2,3.

- Get your new phone number by contacting your new local company.
- Advise them that you want AT&T Long Distance Service in your new home.
- Call 1 800 MOVE ATT, ext. 38278, to enjoy continuous benefits of your AT&T calling plans and services in your new home.

Additional Credits and Charges

\$.85 Carrier Line Charge
 For an explanation of this charge, please call
 1 800 532-2021.



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Additional Credits and Charges (Continued)

\$.93 Universal Connectivity Charge
 For an explanation of this charge, please call
 1 800 532-2021.

\$ 1.78 Total Credits and Charges

Itemized Calls

Amount	Place	Number	Date	Time	Rate	Min
\$.57			Sep 7	8:54P	E	3
2.55			12	3:47P	N	17
\$ 3.12	Subtotal					



Oct 8 1998

AT&T True Reach™ Summary

Total Calls Eligible for True Reach 3.12

\$ 3.12 Total Itemized Calls

Taxes and Surcharges _____

\$.14 Federal Tax @ 3%

.02 Virginia Interstate Tax Surcharge 0.38%

\$.16 Total Invoice Taxes and Surcharges

\$ 5.06 Total AT&T

Billing Questions - Call 1 800 222-0300

RATE KEY: * = Dialed (no service charge)
E = Evening rate
N = Night/weekend rate